

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARK E. HAMANN,

No. C 07-06008 TEH (PR)

Petitioner,

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL;
GRANTING APPLICATION FOR
ENLARGEMENT OF TIME TO
FILE RESPONSE

vs.

KEN CLARK, Warden,

Respondent.

(Docket Nos. 5, 7)

Petitioner, a California state prisoner, filed a pro se petition for a writ of habeas corpus under 28 U.S.C. § 2254 challenging his state conviction. On March 28, 2008, the Court issued an order to show cause why a writ of habeas corpus should not be issued.

Motion for Appointment of Counsel

Petitioner has filed a motion for appointment of counsel which is hereby DENIED without prejudice. (Docket no. 5.) See Knaubert v. Goldsmith, 791 F.2d 722, 728 (9th Cir.) (unless an evidentiary hearing is required, the decision to appoint counsel in habeas corpus proceedings is within the discretion of the district court), cert. denied, 479 U.S. 867 (1986). Petitioner adequately presented his claims for relief in the petition and the Court has issued an order to show cause. See Bashor v. Risley, 730 F.2d 1228, 1234 (9th Cir.) (although petitioner had no background in law, denial of appointment of counsel within discretion of district court where petitioner clearly presented issues in petition and accompanying memorandum), cert. denied, 469 U.S. 838 (1984). The Court will appoint counsel on its own motion if an evidentiary hearing is later required. Id. (appointment of counsel mandatory if evidentiary hearing is required).

Application for Extension of Time

Respondent seeks an extension of time by which to file an answer or responsive motion. Good cause appearing, the request for extension of time is GRANTED. (Docket no. 7.) Respondent shall file an answer to the petition, or responsive motion, by June 26, 2008. Petitioner may file and serve a traverse within thirty (30) days of his receipt of the answer, or an opposition to a motion to dismiss, if any, within thirty (30) days of his receipt of the motion.

SO ORDERED.

DATED: 06/13/08



THELTON E. HENDERSON
United States District Judge